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WALDORF=ASTORIA MANAGEMENT LLC

FILED

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M. FERNANDEZ-KAHAKAUWILA, CLERK
SECOND CIRCUIT COURT
STATE OF HAWAII

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

RONDA BESELT aka RONDA
MELNYCHUK-BESEL, MARK WARREN
BESELT,

Plaintiffs,

vs.

WALDORF=ASTORIA MANAGEMENT
LLC, a foreign limited liability company;
DEPARTMENT OF LAND AND NATURAL
RESOURCES, JOHN DOES 1-5, JANE
DOES 1-5, ROE CORPORATIONS 1-5, ROE
NON-PROFIT CORPORATIONS 1-5 AND
ROE GOVERNMENTAL AGENCIES 1-5,

Defendants.

CIVIL NO. 16-1-0597(2)

ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT
WALDORF=ASTORIA MANAGEMENT
LLC'S MOTION TO COMPEL
DISCOVERY, FILED ON JANUARY 14,
2019 [DKT. 53]

Date: February 13, 2019
Time: 8:15 a.m.
Judge: Hon. Peter T. Cahill

Trial Date: September 30, 2019

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT
WALDORF=ASTORIA MANAGEMENT LLC'S MOTION TO COMPEL
DISCOVERY, FILED ON JANUARY 14, 2019 [DKT. 53]

Defendant Waldorf=Astoria Management LLC's ("Waldorf") Motion to Compel

hereby certify that this is a full, true and
correct copy of the Original

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EXHIBIT

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Clerk, Second Circuit Court

Discovery as to Plaintiff Ronda Beselt [Dkt. 53] (the “Motion”) came on for hearing before the Honorable Peter T. Cahill on February 13, 2019 at 8:15 a.m. HST. Peter C. Hsieh appeared on behalf of Plaintiff Ronda Beselt (“Plaintiff”). Patricia M. NaPier and Stacy Y. Ma appeared on behalf of Waldorf.

I. BACKGROUND

WHEREAS, this case involves an umbrella allegedly striking Plaintiff, a resident of Alberta, Canada, on the beach fronting Grand Wailea Resort on January 7, 2015;

WHEREAS, on July 13, 2018, counsel for Defendants Waldorf and the State of Hawaii Department of Land and Natural Resources each filed a Status Conference Statement with the Court [Dkts. 39, 40] pursuant to the Pretrial Order [Dkt. 36]; on July 16, 2018, Plaintiffs filed a Status Conference Statement [Dkt. 41]; all parties indicated that very limited discovery had been conducted up to that point, with Waldorf raising the issue of Plaintiff’s apparent interference in the discovery process, including issues relating to the execution and use of medical and employment authorizations to obtain Plaintiff’s records [Dkt. 39];

WHEREAS, at the Status Conference on July 20, 2018, after considering the Status Conference Statements and discussing the issues with counsel, the Court verbally warned, ruled and ordered Plaintiff to comply with Hawaii discovery procedures and not to interfere with the discovery process; the Court’s Minute Entry states, “PLAINTIFF HAS 10 DAYS TO EXECUTE RELEASES AND THERE WILL BE NO REDACTIONS” (“July 20, 2018 Status Conference and Order”) [CM No. 2];

WHEREAS, Plaintiff’s third-party Custodians of Records have produced redacted records to Waldorf in violation of the Court’s previous July 20, 2018 Status Conference and Order [see CM No. 2], and the records and argument by counsel indicate that Plaintiff has

directed that redactions be made and/or has interfered in the production of documents requested by Waldorf, including the production of her employment records by Alberta Health Services [*see e.g. Ex. KK to Dkt. 62*];

II. ORDER

Upon consideration of the records herein, as well as the case procedural background, written submissions and oral arguments of counsel,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Court GRANTS IN PART AND DENIES IN PART the Motion pursuant to the following terms:

1. Plaintiff shall not be permitted to produce additional records to Waldorf after February 13, 2019;
2. The presentation of Plaintiff's claims at the trial in this case, which is set for September 30, 2019, shall be limited to the records that have been produced by Plaintiff or third-party Custodians of Records to Waldorf on or before February 13, 2019, subject to any objections as to admissibility by either party;
3. All records produced by Plaintiff or a third-party Custodian of Records after February 13, 2019 shall not be considered by Plaintiff's experts or permitted for use at trial;
4. Testimony by any witness, including Plaintiff and/or her expert(s), shall be limited to information contained in the records that have been produced to Waldorf on or before February 13, 2019, subject to any objections as to admissibility by either party;
5. Plaintiff is barred from recovery of damages for lost earnings or loss of earning capacity [*see CM No. 5*];
6. Plaintiff is expressly warned that her failure to comply with any of the terms of this Order or with her obligations under the Hawaii Rules of Civil Procedure in any

respect will result in the imposition of increasingly severe sanctions, up to and including dismissal of this action;

7. Neither party shall be awarded attorneys' fees and costs in connection with this Motion.

8. Plaintiff may file a motion for reconsideration, if warranted.

IT IS SO ORDERED.

DATED: Wailuku, Hawaii, _____, 2019. MAR 12 2019

/S/ PETER T. CAHILL (SEAL)
JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

MICHAEL J. GREEN
PETER C. HSIEH
Attorneys for Plaintiff

Order Granting In Part and Denying in Part Defendant Waldorf=Astoria Management LLC's Motion to Compel Discovery, filed on January 14, 2019 [Dkt. 53]
Ronda Beselt v. Waldorf=Astoria Management LLC, CIVIL NO. 16-1-0597(2), Circuit Court of the Second Circuit, State of Hawai'i



January 31, 2019

Goodsill Anderson Quinn & Stifel
Suite 1600, 999 Bishop Street
Honolulu, HI 96813

Attention: Stacy Ma

Re: Ronda Melnychuk-Beselt
Your File: 16-1-0597(2)
MVA/Date of loss:

In response to your request dated August 15, 2018 regarding the above named employee, the following information is provided:

- We have been advised by our Legal & Privacy department that we are unable to release all employment records pertaining to Ronda Beselt as exclusions to the employment file have been requested by Ronda Beselt.

Kindly forward all future requests related to this claim to Alberta Health Services – HR Shared Services at the address noted below.

Sincerely,
Alberta Health Services

Charla Haynes
Benefit Assistant

HR Shared Services
5th floor 10044 – 108 Street Edmonton, AB T5J 3S7
Email: Charla.Haynes@albertahealthservices.ca
www.albertahealthservices.ca

EXHIBIT KK